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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,506	06/14/2001	Eric M. Sadowski	1504-0055	7780

7590 08/01/2005
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EXAMINER

LUGO, DAVID B

ART UNIT	PAPER NUMBER
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2637

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,506

Applicant(s)

SADOWSKI, ERIC M.

Examiner

David B. Lugo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 42 (Fig. 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7-11, 13-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Burns et al. U.S. Patent 6,662,135.

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Regarding claims 1, 7 and 13, Burns et al. disclose an apparatus in Figure 3 for internally testing a component of a CATV network comprising a QAM transmitter (modulator 390), a QAM receiver (demodulator 340), a test controller (ASIC 360 and CPU 383) operable to configure the QAM receiver and the QAM transmitter for an internal test (col. 7, lines 31-37; col. 8, lines 47-66), and a test coupler 305 operable to couple an output of the QAM transmitter to an input of the QAM receiver (col. 7, line 66 to col. 8, line 15; col. 8, lines 25-27).

Regarding claims 2, 8 and 14, Burns et al. further disclose that the test controller can provide a set of parameters to the transmitter 390 in order to provide a modulated output which include values for parameters such as carrier frequency (col. 9, lines 44-50).

Regarding claims 3, 9 and 15, Burns et al. disclose that the demodulated downstream signal is compared to the original known test signal to test the operation of the modem (col. 8, lines 57-60; col. 10, lines 29-35).

Regarding claims 4, 10 and 16, Burns et al. further disclose that set of parameters provided to the transmitter 390 include values for symbol rate (col. 9, lines 44-50).

Regarding claims 5, 11 and 18, Burns et al. show in Figure 3 that the test coupler selectively couples the output of the QAM transmitter to a front-end component of the QAM receiver depending on the position of the switch.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burns et al. in view of Thompson et al. U.S. Patent 6,154,204.

Regarding claims 6, 12 and 17, Burns et al. disclose a device for internally testing a component of a CATV network as described above, where in one example, the symbol rate is chosen to be 1.28 mega-symbols per second (col. 9, lines 40-44), considered to be within the bandwidth of the receiver's band pass filter (BPF) for 6 MHz wide downstream data channels. Burns et al. do not expressly state that the BPF in the receiver is a SAW filter. Thompson et al. disclose the use SAW filters in television cable receivers for selecting frequency bands in the energy spectrum of TV coaxial cables with sharp cutoffs (col. 2, lines 32-34). It would have been obvious to one of ordinary skill in the art to use a SAW filter for the BPF in the receiver of Burns et al. because SAW filters provide for band pass filtering with sharp band edges thus eliminating a majority of adjacent channel interference.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Chen et al. U.S. Patent 6,032,019 disclose an echo device in a cable television unit that receives data from the transmitter and sends the data to the receiver to analyze the data.

Nikolich U.S. Patent 6,853,680 discloses an embedded cable modem to enable diagnostic and testing while not interrupting services on the system.

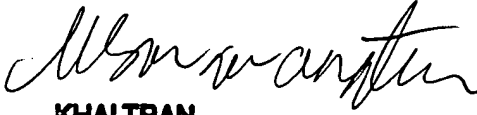
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Lugo whose telephone number is 571-272-3043. The examiner can normally be reached on M-F; 9:30-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Lugo
7/26/05


KHAI TRAN
PRIMARY EXAMINER 7/28/05